

### **REMARKS**

By this paper, no claims have been amended, and no new claims have been added. Upon entry of the foregoing amendment, claims 1-32, 35-38 and 40-62 will remain pending in this application. In view of the following remarks, Applicants respectfully request reconsideration and allowance.

In the latest Office Action, the Examiner provisionally rejected claims 1-32, 35-38 and 40-62 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-52 of copending Application No. 10/968,250 and claims 1-6, 8-21, 23-27, 29-31, 33-42, 49-52, 55-58, and 60-61. In response, Applicants submit that the present application, having a filing date of August 25, 2003, was filed before Application No. 10/968,250, which was filed October 19, 2004. Therefore, Applicants respectfully submit that a terminal disclaimer is not necessary to obviate a double patent rejection in such circumstances:

If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

M.P.E.P. § 804 (I)(B)(1) (8th Ed., Rev. 5, Aug. 2006).

Thus, if Applicants' previous amendments and remarks have been persuasive with respect to the previous rejections, Applicants respectfully submit that the remaining claims are in condition for allowance.

In view of the foregoing remarks, Applicants submit that the application is now in condition for allowance. Prompt favorable action is, therefore, requested. In the event that the Examiner finds remaining impediment to an allowance of this application that may be clarified

through a telephonic interview, the Examiner is requested to contact the undersigned attorney.

Dated this 11<sup>th</sup> day of January, 2007.

Respectfully submitted,

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